

**JOINT LEGISLATIVE SUNSET
REVIEW COMMITTEE FINDINGS AND
RECOMMENDATIONS**

**Review and Evaluation of the
California State Athletic Commission**

**Report to the
Department of Consumer Affairs**

FEBRUARY 1996

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SUMMARY OF RECOMMENDATIONS AND FINDINGS

ISSUE #1: Should the Athletic Commission be continued as a separate agency, or sunsetted and have all of its duties, powers and functions turned over to the Department of Consumer Affairs?

RECOMMENDATION:

The Athletic Commission should be continued as a separate agency, but the Commission should be reviewed once again in four years.

FINDINGS:

- 1. The Commission has taken an aggressive stance toward examining and improving its operations. These efforts include the development in 1994 of a five year strategic plan and the implementation of Total Quality Management (TQM) principles.*
- 2. The Commission has undergone two audits in recent years, and as a result of those audits, the Commission has implemented a number of operational changes.*
- 3. It is unclear whether the Professional Boxer's Pension Plan will be a viable and solvent plan in the future.*
- 4. The Commission receives a portion of its funding source from the General Fund (\$94,957 in FY 1994-95, and \$50,870 in FY 1993-94.) However, the Commission is proposing legislation aimed at making it more fiscally self-sufficient.*
- 5. There is currently no official reciprocity of records with neighboring states concerning boxing and full contact martial arts events. This could put boxers and martial arts fighters at risk without knowledge of injuries or possible violations incurred in fights outside this state.*
- 6. It does not appear necessary for the Commission to license or regulate ticket takers, announcers, ticket sellers, box office employees, or door persons.*
- 7. The Commission has no testing requirements for HBV/HIV.*
- 8. The Commission has not established a formalized tracking system for complaint handling and processing.*

9. The Commission has not gathered and analyzed comparative data from other athletic commissions in other states to identify additional possibilities for improving standards and its regulatory structure.

10. Recent studies of deaths from injuries which have occurred in the boxing ring provides better information about when officials should stop a fight.

11. It is unclear whether the Commission has authority over boxing events which occur on Native American reservations. However, the Commission is involved in litigation to settle this dispute.

12. Most of the Commission's legislative efforts have been directed toward making it more fiscally self-sufficient. The Commission has made it a primary goal to minimize its general fund dependency.

13. The Commission's proposed administrative, regulatory and legislative changes address some the basic issues which are identified in this report.

ISSUE #2: Should the State continue with the licensing and regulation of boxing and the martial arts, and if not should some other alternative form of regulation be recommended?

RECOMMENDATION:

The State should continue with the licensing and regulation of boxing and the martial arts.

FINDINGS:

1. There is overwhelming evidence that the unregulated practice of professional and amateur boxing and full contact martial arts could endanger the health, safety and welfare of the licensee (competitor). There is little evidence provided that the public would be harmed if there was no oversight provided by the Commission. However, it is not this agency's legal mandate to protect the consumer.

2. There are no other organizations which exist to protect the boxer or martial artist.

3. All but two states have some form of athletic commission or board, and none have deregulated the sports of boxing or full contact martial arts. California holds more boxing events than any other state.

ISSUE #3: What changes should be made to the Commission's operation and programs to improve its effectiveness and efficiency?

RECOMMENDATIONS:

- 1. The Commission should implement all Recommended Improvements contained in its report submitted to the JLSRC insofar as they are consistent with the following recommendations.*
- 2. The Commission should continue to pursue revenue generating opportunities, such as pay-per-view revenues from boxing shows, and as of Fiscal Year 1997-98 should be entirely self-supported by the Commission's revenue generating activities.*
- 3. The Commission should maintain as a high priority the solvency and viability of the Professional Boxer's Pension Account, and implement the proposed rules submitted to the Office of Administrative Law as soon as approved.*
- 4. The Commission should continue to pursue licensing reciprocity with neighboring states to increase competitors' access to boxing and full contact martial arts events.*
- 5. The Commission should analyze the need for all current licensing categories. Specifically, the Commission should evaluate the advantages and disadvantages of eliminating licensing for: ticket taker, announcer, ticket seller, box office employee, and door person.*
- 6. The Commission should implement HBV/HIV testing requirements for licensed competitors.*
- 7. The Commission should establish a formalized tracking system for complaint handling and processing.*
- 8. The Commission should gather and analyze comparative data from athletic commissions in other states to identify additional possibilities for improvement.*
- 9. In the light of recent studies of deaths from injury in the boxing ring, the Commission should consider clarifying standards as to when a fight should be stopped.*
- 10. The Commission should adopt regulations to fine or suspend competitors and other licensees who participate in unregulated fights on Indian reservations.*

OVERALL APPROACH TO THE SUNSET REVIEW

CURRENT APPROACH TO REVIEW

Legislation enacted in 1994 (Chapter 908/94, SB 2036, McCorquodale), put in place a procedure and schedule for the Legislature to assess the effectiveness of, or need for, state involvement in the 32 occupational areas currently regulated by various boards. ("Board," as used in this document, refers to a "commission," "committee," "examining committee," or "organization" that has the ultimate responsibility for administration of a regulatory program as required under provisions of the Business and Professions Code.)

Pursuant to this new law, independent boards become inoperative, according to a specified schedule, on July 1 of either 1997, 1998, or 1999. The respective statutes are then repealed six months later, on January 1 of either 1998, 1999, or 2000. Thus, the boards and their regulatory authorities "sunset" unless the Legislature passes laws to either reinstate the board or extend its sunset date.

Chapter 908/94 creates the Joint Legislative Sunset Review Committee (JLSRC) to review and analyze the effectiveness of and need for each of the boards. Each board, with the assistance of the Department of Consumer Affairs (DCA), is required to submit to the JLSRC -- 15 months before January 1, of the year its authorizing legislation becomes operative -- an analysis of its regulatory functions and reasons to continue regulatory activities. (Reports from the boards scheduled to sunset in 1997 were, therefore, due by October 1, 1995.)

The JLSRC must hold public hearings during the interim study recess to solicit testimony from the director of the Department of Consumer Affairs, the boards scheduled to sunset, the public, and the regulated industries/occupations. During those hearings, the committee members must evaluate and determine whether a board or regulatory program has demonstrated a public need for the continued existence of the board or regulatory program and for the degree of regulation based on the factors and minimum standards of performance listed below:

- (1) Whether regulation by the board is necessary to protect the public health, safety, and welfare.
- (2) Whether the basis or facts that necessitated the initial licensing or regulation of a practice or profession have changed.
- (3) Whether other conditions have arisen that would warrant increased, decreased, or the same degree of regulation.
- (4) If regulation of the profession or practice is necessary, whether existing statutes and regulations establish the least restrictive form of regulation consistent with the public

interest, considering other available regulatory mechanisms, and whether the board rules enhance the public interest and are within the scope of legislative intent.

(5) Whether the board operates and enforces its regulatory responsibilities in the public interest and whether its regulatory mission is impeded or enhanced by existing statutes, regulations, policies, practices, or any other circumstances, including budgetary, resource, and personal matters.

(6) Whether an analysis of board operations indicates that the board performs its statutory duties efficiently and effectively.

(7) Whether the composition of the board adequately represents the public interest and whether the board encourages public participation in its decisions rather than participation only by the industry and individuals it regulates.

(8) Whether the board and its laws or regulations stimulate or restrict competition, and the extent of the economic impact the board's regulatory practices have on the state's business and technological growth.

(9) Whether complaint, investigation, powers to intervene, and disciplinary procedures adequately protect the public and whether final dispositions of complaints, investigations, restraining orders, and disciplinary actions are in the public interest; or if it is, instead, self-serving to the profession, industry or individuals being regulated by the board.

(10) Whether the scope of practice of the regulated profession or occupation contributes to the highest utilization of personnel and whether entry requirements encourage affirmative action.

(11) Whether administrative and statutory changes are necessary to improve board operations to enhance the public interest.

The JLSRC must also consider alternatives to placing responsibilities and jurisdiction of the board under the Department of Consumer Affairs.

The JLSRC must then report its findings and recommendations to the DCA for its review. The DCA must then prepare a final report including its own findings and recommendations and those of JLSRC. This final report must then be submitted to the Legislature within 60 days, and shall include whether each board scheduled for repeal should be terminated, continued, or re-established, and whether its functions should be revised. If the JLSRC or DCA deems it advisable, the report may include proposed bills to carry out these recommendations.

REQUEST FOR INFORMATION AND BOARD REPORT

As indicated, all boards are required to prepare an analysis and submit a report to the JLSRC "no later than one year plus 90 days prior to the January 1st of the year during which that board shall become inoperative." (October 1, 1995, was the deadline for those boards which sunset in 1997.)

The analysis and report must include, at a minimum, all of the following:

- (a) A comprehensive statement of the board's mission, goals, objectives and legal jurisdiction in protecting the health, safety, and welfare of the public.
- (b) The board's enforcement priorities, complaint and enforcement data, budget expenditures with average- and median-costs per case, and case aging data specific to post and pre-accusation cases at the Attorney General's office.
- (c) The board's fund conditions, sources of revenue, and expenditure categories of the last four fiscal years by program component.
- (d) The board's description of its licensing process including the time and costs required to implement and administer its licensing examination, ownership of the license examination, and passage rate and areas of examination.
- (e) The board's initiation of legislative efforts, budget change proposals, and other initiatives it has taken to improve its legislative mandate.

In an attempt to reconcile this requirement for information, along with those considerations and factors which the JLSRC must make during its deliberations, a request for information was prepared by JLSRC staff and sent to all boards on July 3, 1995.

The request asked a number of questions about the board's operations and programs, about the continued need to regulate the particular occupation, and about the efforts which the board has made, or should make, to improve its overall efficiency and effectiveness. There was also a specific request for information dealing with the board's funding, licensing, examination, complaint and enforcement process for the past four years.

Staff then continued to meet with boards, as needed, to assist them in compiling this information and completing the report.

The report submitted by each board was broken down into three parts. The first part, provided background information dealing with each aspect of the board's current regulatory program. This included the board's powers, duties and responsibilities, its funding and organization, the licensing, examination, continuing education, and enforcement activities of the board for the past four years.

The second part of the report, addressed the issue of whether there is still a need to regulate this particular occupation. The questions addressed by the board were basically those which are asked during any "sunrise review" process, i.e., the current process used by the Legislature to evaluate the need for regulation.

The third part of the report, discusses any regulatory or legislative efforts the board has made, or are needed, to improve its current operation and protection of the consumer.

There are some appendices which were included as part of their report. There are also appendices (attachments) which, because of their length, or because they were not essential to the overall information contained in the original report, were not provided with the report. They were, however, available to members of the JLSRC upon request.

JLSRC REPORT OF FINDINGS AND RECOMMENDATIONS

The JLSRC must provide to DCA a report of its findings and recommendations after hearings are completed. This document has been prepared in an attempt to meet that mandate.

The findings and recommendations in this report are based on information and testimony received during the hearings conducted by the JLSRC on November 27th, 28th and December 5th. It also reflects information which was provided in the board's report, information provided by the Department of Consumer Affairs, a review of the current literature dealing with occupational licensing issues, and a comparative analysis of occupational licensing in other states performed by the Senate Office of Research.

The document begins with a short summary of the current regulatory program and discusses the creation of the licensing act, the board's budget, revenue and fees collected, an overview of licensing activity and the required examination, and disciplinary/enforcement actions.

Part one, provides an overall evaluation of the board's operations and programs. This section includes everything from a review of the general responsibilities and duties of the board, to the licensing, examination and enforcement process based on criteria developed by the JLSRC. There are findings made about each function and activity of the board.

Part two of this document, is a review of the need to regulate this particular occupation. The issues are those which are addressed during the current "sunrise review" process, and those which must be considered by the JLSRC under the current law.

SUMMARY OF CURRENT REGULATION

Note: Under the provisions of SB 2036 (McCorquodale, Chapter 908, Statutes of 1994) the Athletic Commission is subject to review, but not repeal. Although it was constitutionally created by initiative of the people of California in 1924, subsequent amendments to the Constitution in 1932, and 1966 gave the Legislature authority to amend, revise, or supplement the 1924 initiative. Specifically, the 1966 amendments added Section 18608 (now §18601) to the Business and Professions Code which provides that the Legislature may amend, revise, or supplement any part of the act (Boxing Act) authorizing the Athletic Commission.

Background

- The California State Athletic Commission (Commission) was created by initiative of the people of California in 1924. The initiative was the result of public concern regarding: (1) the number of boxer injuries and deaths from injuries inflicted in the ring, and (2) the increasing involvement of unethical persons in promoting and conducting boxing events. Prior to the Commission no governmental agency regulated the sport of boxing in California. Today, the Commission regulates professional and amateur boxing and full contact martial arts throughout the state by licensing all parties involved in boxing and full contact martial arts shows, and maintaining full control over the administration of each show. The purpose of this regulatory process is to protect the health and safety of the athletes and ensure that bouts are fair and competitive. The overall effect is to protect both the athletes and consumers who pay to watch these sports.
- Since 1982 the Commission has administered the Professional Boxers' Pension Plan, to provide retirement benefits for professional boxers. State law requires that boxers, managers and promoters make contributions to the pension plan as specified.
- In 1985, the Commission began regulating full contact martial arts fighters and bouts (SB 1324, Montoya, Chapter 1092, Statutes of 1985).
- Due to the growing problem of boxer neurological injuries and deaths, in 1986 the state began requiring boxers to undergo neurological examinations. The fee to cover the costs of these annual examinations is generated by a per ticket assessment of \$1.25, paid by promoters of professional boxing shows in California. Professional boxers and managers also pay a neurological examination fee at the time of licensure. Fee revenues are placed in the Boxers' Neurological Examination Account, which is managed by the Commission.

- In 1990, professional wrestling was deregulated (AB 1040, Floyd, Chapter 757, Statutes of 1989).

Composition of the Commission

- The Commission consists of eight members. Six are appointed by the Governor, subject to Senate confirmation; one member is appointed by the Senate Rules Committee; and one member is appointed by the Speaker of the Assembly. There are no qualifications for an individual appointed to the Commission, however, no person currently licensed as a promoter, manager or judge may serve on the Commission.

Powers and Duties

- The Commission is authorized to license participants in boxing and full contact martial arts bouts. It is also authorized to prescribe the conditions under which licenses are issued and bouts are held. In addition, the Commission has sole jurisdiction over the administration of boxing and full contact martial arts shows. The Commission has the specific authority and duty to:
 1. Approve, manage and direct all professional and amateur boxing and full contact martial arts shows or exhibitions held in California.
 2. License individuals associated with exhibitions (announcers, ticket takers, referees, door persons, ticket seller, box office employee), and approve physical sites where boxing and full contact martial arts activities occur.
 3. Determine the performance abilities of a licensee or applicant, and administer examinations to applicants.
 4. Process complaints, conduct investigations, and enforce all statutes and rules by means of disciplinary action.
 5. Administer the Professional Boxer's Pension Plan.
- The Commission's powers and authorities far exceed those vested in other boards and bureaus. The Commission may take disciplinary actions without the use of the administrative hearing process which stand final unless reversed by the Superior Court. The executive officer is authorized to temporarily suspend, without advance hearing, any license issued by the Commission, to protect the public welfare or the best interests of boxing and full contact martial arts. Additionally, the executive officer may also assess fines up to \$2500 for violations.
- The broad powers of the Commission have a resounding effect on its regulatory functions and daily operations—particularly in the area of licensing and enforcement, including processing complaints, conducting investigations and handling disciplinary actions quickly.

Budget

- Since the Commission was first formed in 1924, it has been part of the State's General Fund. In FY 1992-93 and FY 1993-94 the Commission was moved from General Fund to special fund status. However, the licensing and fee revenues generated by the Commission were not able to sustain its budget, and the Commission was moved back to the General Fund. The Commission is currently pursuing ways to make itself self funding. The Commission states that it is a revenue generating entity, and only a small portion of its budget is offset by the General Fund. The Commission's primary revenue base is a 5% fee on all live boxing shows it oversees. Because it is based solely on the ticket purchase price for live boxing shows, the gate tax revenue base is very erratic, and completely beyond the control of the Commission. In past several years, as ticket sales to live events have declined, the gate taxes have also declined.

Revenue Category	FY 91-92	FY 92-93	FY 93-94	FY 94-95
Gate taxes	\$416,935	\$373,219	\$371,355	\$343,283
Application fees	\$66,720	\$65,640	\$110,595	\$133,015
Other	\$55,862	\$179,711	\$16,754	\$82,578
Total Revenues	\$539,517	\$618,570	\$498,704	\$558,876
Total Expenditures	\$652,398	\$578,727	\$549,574	\$653,833

- The Commission accounts for its revenues and expenditures in three program areas: support, the Boxer's Neurological Examination Account, and the Professional Boxer's Pension Account. The Boxer's Neurological Examination Account and the Professional Boxer's Pension Account are both self-supporting accounts.

Licensing and Examinations

- The concept of licensing by the Commission is different from that of many other boards where the examination process generally involves testing applicants for their knowledge to ensure minimum standards of competency are met. While the Commission tests non-competitors in these areas (referees, judges and timekeepers), competitors must undergo a series of physical examinations for licensure.
- One way in which the Commission regulates boxing and full contact martial arts is by licensing all individuals involved in the sport. These measures are regulatory safeguards against illegal wagering, non-competitive (fixed) contests, and criminal activity. The licensing categories include:
 - Professional Boxers
 - Amateur Boxers
 - Professional Martial Arts Fighters
 - Amateur Martial Arts Fighters
 - Professional Promoters
 - Amateur Promoters
 - Managers
 - Seconds
 - Matchmakers
 - Assistant Matchmakers
 - Professional Referees
 - Professional Judges

- Amateur Judges
 - Timekeepers
 - Announcers
 - Ticket Sellers
 - Ticket Takers
 - Box Office Employees
 - Door Persons
- The Commission also issues sparing permits and licenses boxing gymnasiums. Within the state, the Commission has sole direction, management, control, and jurisdiction over all amateur and professional boxing and full contact martial arts bouts. No related event can take place without the Commission's approval, and no one can participate in associated activities without a license. It is a violation of California law and grounds for fine or suspension for a licensee to participate in unsanctioned bouts. In addition, a fighter is subject to the Commission's regulatory purview when participating in a bout in another state.
 - The Commission may deny a licensing application if the applicant has engaged in illegal bookmaking or gambling, has been convicted of a crime related to the regulation of boxing, or is involved in organized crime.
 - The purpose of the Commission's licensing examinations is to protect the health and welfare of the fighter. Before being granted a license to compete, a fighter must undergo a physical examination, an eye examination, and a Neurological examination.

Complaints

- Complaints may be informal (verbal) or formal (written). Complaint data shows that over the last four years, 484 complaints have been filed. The Commission's report further identifies the complaints that are made by the public and those made by licensees. Over the last four years, 59 of the complaints were made by licensees and concerned disputes between boxers and managers, while 425 complaints were made by the public against unlicensed martial arts studios. Currently, the Commission has no jurisdiction over martial arts studios, but began tracking complaints against them in 1992. The high volume of complaints has led the Commission to seek regulatory authority in this area, however, efforts to do so have been thus far unsuccessful.

Enforcement and Disciplinary Actions

- The Commission's broad powers and authorities are dramatically different than other boards. The executive officer's authority to temporarily suspend or fine a licensee is unique among regulatory boards. Over the last four fiscal years the Commission had filed 808 disciplinary actions, resulting in a corresponding number of suspensions.
- The Commission rarely takes action against unlicensed individuals because it actively administers each and every boxing event in the state.

Litigation

- Currently the Commission is involved in litigation concerning boxing events held on Indian reservations (*29 Palms Band of Mission Indians v. The California State Athletic Commission*). The tribe believes their land is sovereign and therefore boxing on their reservation is not subject to state control. The Commission maintains that it is authorized to regulate boxing throughout California, even on tribal lands, and to discipline licensees who participate in contests on tribal lands. In many cases boxing is utilized as a gambling incentive. However, the Commission believes that the great potential for serious injury or even death to the participants, makes it imperative that the Commission have oversight over all boxing matches in the state.

1.

**EVALUATION OF COMMISSION'S OPERATIONS
AND PROGRAMS**

ISSUE : Should the Athletic Commission be continued as a separate agency, or sunsetted and have all of its duties, powers and functions turned over to the Department of Consumer Affairs?
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RECOMMENDATION:

The Athletic Commission should be continued as a separate agency, but the Commission should be reviewed once again in four years.

FINDINGS:

1. The Commission has taken an aggressive stance toward examining and improving its operations. These efforts include the development in 1994 of a five year strategic plan and the implementation of Total Quality Management (TQM) principles.

- The Commission's strategic plan states its vision, mission and goals. The plan also clarifies the roles and responsibilities of the Commissioners and staff.
- In response to the Governor's Executive Order requiring all agencies and departments to adopt TQM philosophies and practices, the Commission's Executive Officer and staff members attended TQM training sessions. As a result of this training, the staff implemented a variety of steps to maximize the service the Commission provides to licensees and the industry. Some of these included:
 - ⇒ Maximizing the service the Commission offers to promoters in order to support the revenues that are generated from taxes on boxing promotions.
 - ⇒ Expanded efforts to aid competitors in obtaining a license, such as scheduling neurological examinations.
 - ⇒ Focusing on increasing efficiency and reducing the cost of the administration of shows.
 - ⇒ Analyzing the services it provides with the goal of streamlining processes without compromising fighter safety.

2. The Commission has undergone two audits in recent years, and as a result of those audits, the Commission has implemented a number of operational changes.

- The Commission has undergone two audits in recent years. The Office of the Auditor General audited the Commission's oversight of the Professional Boxer's Pension Plan in 1991, and the Department of Consumer Affairs (DCA) conducted a management audit of the Commission in 1992. As the result of those audits and its own efforts, the Commission has implemented a number of operational changes:

⇒ Developed and implemented controls over the Professional Boxer's Pension Plan.

⇒ Reduced the cost of administering shows by using hourly instead of full-time inspectors.

⇒ Reduced the scope of the neurological examination, thereby decreasing the per ticket assessment, and reducing the Commission's costs nearly \$150,000 each year.

⇒ Established an automated system to track revenues and expenditures.

3. It is unclear whether the Professional Boxer's Pension Plan will be a viable and solvent plan in the future.

- Since 1982, the Commission has administered the Professional Boxers' Pension Plan to provide retirement benefits for professional boxers. State law requires that boxers, managers and promoters make contributions to the pension plan as specified. However, promoters have been attempting to eliminate the pension system from its original inception fourteen years ago.
- As indicated, an audit was conducted of the Commission's controls over the Professional Boxers' Pension Plan in September 1991. It was not indicated, however, the extent to which the pension account is financially solvent or what the future viability of the pension plan may be.
- It was brought to the attention of the JLSRC, that the Commission has made some changes to the pension plan, due to pressure by promoters, that could effect the ability of the plans to collect at a rate which would pay off already promised obligations. These changes included: (1) no contributions are to be made by boxers or managers on the first two fights of a boxer in California each calendar year, and (2) the promoter's contribution is to be capped at \$1,000 per event. These changes meant, that were a large event to be held in California, the pension fund would not benefit at all, since few big ticket champions and challengers are fighting three times a year in California.

- The Commission has responded to the shortfall responsibly by hiring an outside expert to review the data, and to recommend adjustments to the plan. It has been recommended that the plan not promise defined benefits, but that it define contributions, and pay whatever is collected. As argued, while such a plan is always actuarially sound, it can mean a betrayal of reasonable expectations if the levels become too low. Hence, any such system must be monitored carefully to make sure fiduciary obligations are honored.
- The Commission has proposed rule changes which will implement the recommended changes to the plan, correct the imbalance in collections, and allow for more flexible benefits.

4. The Commission receives a portion of its funding source from the General Fund (\$94,957 in FY 1994-95, and \$50,870 in FY 1993-94.) However, the Commission is proposing legislation aimed at making it more fiscally self-sufficient.

- The Commission's funding source is the State's General Fund. Efforts have been made in the past to move the Commission from General Fund to special fund status. (This was done in FY 1992-93 and FY 1993-94. However, licensing and fee revenues were not able to sustain the budget, and the Commission was returned to the General Fund.)
- The Athletic Commission is a revenue generating entity, and a portion of its budget is offset by the General Fund. In FY 1994-95, the General Fund had to supply \$94,957 over the Commission's revenues (FY 1993-94 \$50,870).
- The Commission's primary revenue base is a 5% fee on all live boxing shows it oversees. That base is a gate tax on the ticket purchase price and therefore erratic, and currently beyond the control of the Commission. Recently, ticket sales to live events have declined, and the gate taxes have also declined.
- In recent years the Commission has proposed legislation aimed at making the Commission fiscally self-sufficient. In 1995, the Commission sponsored SB 1288 (Alquist) to assess a fee only on the out of state promoter's share of the boxing pay-per-view revenues generate in this state. The Commission states that it will be further pursuing legislation in this area, since it represents "the only remaining revenue source that can completely remove the Commission from the general fund." Over the last four years the Commission has unsuccessfully sought legislation to gain revenue from boxing pay-per-view events. The Commission estimates that the additional boxing pay-per-view revenues would make the Commission completely fiscally self sufficient and could revert and additional \$400,000 to \$1,000,000 into the general fund yearly.
- Currently, according to the Commission, the only revenue base that has not been tapped is cable pay-per-view boxing events that are held outside of California but broadcast into this state at a cost ranging from \$20 to \$50 per household. While

statute allows the Commission to receive 5% of all satellite telecasts, it exempts cable pay-per-view events (B&P § 18837).

5. There is currently no official reciprocity of records with neighboring states concerning boxing and full contact martial arts events. This could put boxers and martial arts fighters at risk without knowledge of injuries or possible violations incurred in fights outside this state.

- There is currently no official reciprocity of records between states. This lack of communication between states tends to put competitors at risk when participating in a bout in California. Without knowledge of injuries or possible violations incurred in fights outside the state, it is possible for the Commission to authorize a bout in which a competitor could be at risk.

6. It does not appear necessary for the Commission to license or regulate ticket takers, announcers, ticket sellers, box office employees, or door persons.

- While the Commission's licensing concept of competitors is different from other boards where the examination process generally involves testing applicants for knowledge to ensure minimum standards of competency, it tests non-competitors in these areas (referees, judges and timekeepers).
- One way in which the Commission regulates boxing and full contact martial arts is by licensing all individuals involved in the sport. These measures are regulatory safeguards against illegal wagering, non-competitive (fixed) contests, and criminal activity.
- By focusing its regulatory efforts, the Commission could more effectively serve licensees who benefit most from the licensing process, or do most to protect the integrity of the sports of boxing and full contact martial arts.

7. The Commission has no testing requirements for HBV/HIV.

- The purpose of the Commission's licensing examinations is to protect the health and welfare of the fighter. Before being granted a license to compete, a fighter must undergo a physical examination, an eye examination, and a neurological examination.
- In recent years, the Commission has sought health and safety legislation to require professional and amateur boxing and martial arts license applicants to submit evidence of a negative test for HBV/HIV.

8. The Commission has not established a formalized tracking system for complaint handling and processing.

- Complaints may be informal (verbal) or formal (written). Complaint data shows that over the last four years, 484 complaints have been filed. The Commission's report

further identifies the complaints that are made by the public and those made by licensees. However the Commission has not established a formalized tracking system for complaint handling and processing.

9. The Commission has not gathered and analyzed comparative data from other athletic commissions in other states to identify additional possibilities for improving standards and its regulatory structure.

- Currently, there are no standards governing boxing and full contact martial arts on a nationwide basis. By gathering information from the athletic commissions in other states and analyzing that data, the Commission may well identify additional areas where improvement of the regulatory structure could be made.

10. Recent studies of deaths from injuries which have occurred in the boxing ring provides better information about when officials should stop a fight.

- Recent studies of deaths from injuries which occurred in the boxing ring have revealed a trends which may give insight into modifying the standards as to when officials should stop a fight. Although ringside official may already intervene and terminate a fight, it may be possible to further clarify when a fight should be stopped.

11. It is unclear whether the Commission has authority over boxing events which occur on Native American reservations. However, the Commission is involved in litigation to settle this dispute.

- Currently the Commission is involved in litigation concerning boxing events held on Native American reservations (*29 Palms Band of Mission Indians v. The California State Athletic Commission*). The tribe believes their land is sovereign and therefore boxing on their reservation is not subject to state control. The Commission maintains that it is authorized to regulate boxing throughout California, even on tribal lands, and to discipline licensees who participate in contests on tribal lands.
- In many cases, boxing events are utilized as a gambling incentive. However, the Commission believes that the great potential for serious injury or even death to the participants, makes it imperative that the Commission have oversight over all boxing matches in the state.
- There is also a concern that promoters will choose to hold events on tribal lands to avoid gate taxes, contributing to the pension/disability plans, safety compliance and referee licensure of this State.

12. Most of the Commission's legislative efforts have been directed toward making it more fiscally self-sufficient. The Commission has made it a primary goal to minimize its general fund dependency.

- Since 1924, the Commission has been a general fund agency (except for FY 92-93, 93-94). Historically, the Commission has had minimal control over its revenues which are based on a 5% fee of all live boxing shows. Since it is based on the number of boxing shows per year and the dollar value of the tickets sold, the revenue base can be very erratic.
- According to the Commission, the only revenue base that has not been tapped is cable pay-per-view boxing events that are held outside of California but broadcast into this state at a cost ranging from \$20 to \$50 per household. While statute allows the Commission to receive 5% of all satellite telecasts, it exempts cable pay-per-view events (B&P § 18837). Over the last four years the Commission has unsuccessfully sought legislation to gain revenue from boxing pay-per-view events. The Commission estimates that the additional boxing pay-per-view revenues would make the Commission completely fiscally self-sufficient and could revert an additional \$400,000 to \$1,000,000 into the general fund yearly.
- During the current legislative session, the Commission sponsored SB 1288 (Alquist) to assess a fee only on the out of state promoter's share of the boxing pay-per-view revenues generated in this state. The Commission states that it will be further pursuing this legislation, since it represents "the only remaining revenue source that can completely remove the Commission from the general fund."
- Other legislation sponsored by the Commission included:
 - ⇒ Increase the maximum fine from \$2,500 to \$10,000.
 - ⇒ Health and safety legislation to require professional and amateur boxing and martial arts license applicants to submit evidence of a negative test for HBV/HIV.
 - ⇒ Broaden the investment vehicles available to the Professional Boxer's Pension Plan to ensure that the plan is actuarially sound.

13. *The Commission's proposed administrative, regulatory and legislative changes address some the basic issues which are identified in this report.*

- The following recommendations of the Commission seem to address some of the basic findings which are made in this report:
 - ⇒ Require improvements such as: become self-supporting by pursuing revenue generating opportunities, protect the solvency of the Professional Boxer's Pension Account, and implement HBV/HIV testing requirements for licensed competitors.
 - ⇒ Continue to pursue licensure reciprocity with neighboring states to increase competitors' accessibility to boxing and full contact martial arts.

- ⇒ Analyze the need to issue licenses for all of the license categories the Commission currently regulates.
- ⇒ Reduce the number of Commissioners from eight to three.
- ⇒ Document internal operating procedures to ensure consistency over major processes performed at the Commission, and establish a formalized tracking system for complaint handling and processing.
- ⇒ Gather and analyze comparative data from athletic commissions in other states to identify additional possibilities for improvement.

2.

REVIEW OF NEED FOR STATE LICENSING AND REGULATION OF BOXING AND MARTIAL ARTS

ISSUE : Should the State continue with the licensing and regulation of boxing and the martial arts, and if not should some other alternative form of regulation be recommended?

RECOMMENDATION:

The State should continue with the licensing and regulation of boxing and the martial arts.

FINDINGS:

1. There is overwhelming evidence that the unregulated practice of professional and amateur boxing and full contact martial arts could endanger the health, safety and welfare of the licensee (competitor). There is little evidence provided that the public would be harmed if there was no oversight provided by the Commission. However, it is not this agency's legal mandate to protect the consumer.

- The 1924 initiative came about because of concern over the number of boxer injuries and deaths from injuries inflicted in the ring, and the increasing involvement of unethical persons in promoting and conducting boxing events. Those concerns still appear to be real and continued.
- The primary difference between occupations the Commission regulates, and other Department and Board regulated occupations, is that Commission's statutes and rules primarily protect the health and safety of the competitors (licensees), and ensure that bouts are fair and competitive. In addition to protecting competitors, the regulation of non-competing occupations serves to protect the integrity of the sports of boxing and full contact martial arts and to ensure the consumer is not defrauded.
- If deregulation occurred, the probable impact on competitors would be:
 - ⇒ More injuries, and likely deaths, would occur in the absence of statutes and rules of the Commission that ensure that only qualified persons are involved. There would be no assurances that physical, eye and neurological examinations had been taken prior to or after a bout, or on an annual basis.

There would be no oversight of judge's or referee's to assure that matches were stopped when necessary and appropriate training was received.

- ⇒ The criminal element would become more involved, reducing the probability of fair and competitive bouts. Boxing has a tradition of being a particularly money-driven sport. Wagering on outcomes has attracted the criminal element to all aspects of this sport, more so than to any other. In fact, boxing is often used to draw gamblers into casinos.
- ⇒ No system would be in place to ensure that informed decisions are made on bout selection (more mismatches would occur), thus putting competitors at risk.
- ⇒ Pugilistic bouts, such as toughman bouts and "smokers" (pugilistic bouts in unlicensed facilities involving unlicensed individuals) would occur.
- ⇒ Gymnasiums would be unsafe which could result in injuries and/or death.
- ⇒ Competitors would be taken advantage of financially without the supervision of prizes and purses, the pension plan, and without a forum for contract mediation.

2. There are no other organizations which exist to protect the boxer or martial artist.

- No other federal, state or private organization provides statutes and rules with a primary focus on protecting the athlete. Professional leagues or unions that exist in other sports do not exist for professional boxers. International organizations that currently exist (e.g., WBA, WBC, WBO) are primarily promotion and sanctioning focused and profit driven. Their main goal is to enhance the sport of boxing via bout selection, promotion and expansion of the marketing efforts of the sport (for profit).

3. All but two states have some form of athletic commission or board, and none have deregulated the sports of boxing or full contact martial arts. California holds more boxing events than any other state.

- Only North Carolina and possibly Oklahoma do not regulate boxing or martial arts events. (Oklahoma may have recently created a commission to oversee these sports.)
- Regulation is particularly important in California due to the number of boxing shows that occur in this state. From 1991 to 1994, California held the most professional boxing shows among other states, averaging 25 shows or more each year.